

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

WALTER JOHNSON,

Petitioner,

vs.

ANTHONY HAYNES, Warden, and
UNITED STATES OF AMERICA,

Respondents.

CIVIL ACTION NO.: CV211-004

ORDER

After an independent and *de novo* review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Johnson reiterates that he believes his sentence was improperly enhanced.

As discussed in Gilbert v. United States, 640 F.3d 1293 (11th Cir. 2011), and in the Magistrate Judge's Report, arguing that one's sentencing enhancement is invalid in a § 2241 motion is an attack on a sentence—not an attack on a conviction. The Eleventh Circuit has concluded that a petitioner is foreclosed from challenging his sentence, rather than his conviction, using 28 U.S.C. § 2255(e)'s savings clause. *Id.* The Magistrate Judge was correct in finding it unnecessary to examine the merits of Johnson's petition.

Johnson's Objections to the Magistrate Judge's Report and Recommendation are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Johnson's 28 U.S.C. § 2241 Petition is **DISMISSED**.

SO ORDERED, this 1 day of August, 2011.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA